

ARTICLE IV. - MASSAGE ESTABLISHMENTS

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Sec. 22-137. - Purpose

It is the purpose of this article to regulate the operation of massage establishments and spa establishments as an exercise of the city's police power in order to protect the health, safety and general welfare of the citizens of the city, it is a further purpose of this article to regulate the practice of massage therapy by massage therapists that have not been licensed by the state, who restrict their practice to the manipulation of the soft tissue of the hands, feet, or ears of the human body, who do not have clients disrobe, and who do not hold themselves out as a massage therapist whose practice is not so limited.

To the extent that relevant Georgia law is modified or amended, so shall this ordinance be immediately modified or amended.

Sec. 22-138. - Definitions

Employee means any person over eighteen (18) years of age, other than a massage therapist who renders any service in connection with the operation of a massage business and receives compensation from the operator of the business or from a patron.

Massage Establishment means any establishment having a source of income or compensation derived from the practice of massage and which has a fixed place of business where any person engages in or carries on any of the activities involved in massage. The term shall be inclusive of and interchangeable with massage parlor and massage business. This term shall not include hospitals or other professional health care establishments licensed as such separately by the state.

Massage therapist means a person who engages in the practice of massage or massage therapy, as defined in this section, for compensation..

(6) If the applicant is a corporation, the address or addresses of the corporation as well as the names and addresses of the agents and employees of the corporation for a period of two years immediately prior to the filing of the application.

(7) A copy of the state license for each employee who will be providing massage therapy services shall be attached to the application. Those employees who will be performing massages, and/or managers or supervisors, who are exempt from getting a state license, shall comply with the work permits provision of this article.

(8) Authorization for the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license. Forms shall be provided by the tax clerk.

(Code 1989, § 9-07-01; Ord. No. 02-02-26, 2-26-2002)

Sec. 22-142 141. - Qualifications.

Each applicant and all employees under this article, prior to making an application for a license to engage in the business, trade or profession of a masseur, must have the following qualifications and must furnish the following information when submitting an application:

(1) The applicant and all employees must be at least 18 years of age and in case the applicant is a corporation, it must be created in or domesticated by the laws of the state.

(2) The applicant must furnish a copy of identification such as a state drivers license/state issued id. Should the applicant be a corporation, it shall furnish a copy of identification such as a drivers license/state issued id for all its agents or employees actually engaged and working under the license.

(3) Such other identification and information necessary to discover the truth of the matters required to be set forth in the application.

(Code 1989, § 9-07-02; Ord. No. 02-02-26, 2-26-2002)

Sec. 22-143. 142 - Issuance.

(a) If the application required by this article is submitted in proper form and is approved by the police department, city planner, and building official, then the development services office is authorized to issue a massage establishment license to the applicant upon the payment of any fees due.

(b) The city manager reserves the right to deny issuance of a license based on any information, which would be grounds for revocation or suspension under section 22-145 received during the application process. Any applicant so denied shall have the right to appeal such decision to the mayor and council.

(c) A separate business registration must be applied for and obtained upon issuance of a massage establishment license.

(Code 1989, § 9-07-03; Ord. No. 02-02-26, 2-26-2002)

Sec. 22-144. - Record of treatments to be kept.

It shall be the duty of any person granted a license under this article to maintain correct and accurate records of the names and addresses of the persons receiving treatment at an establishment, the type of treatment administered, and the name of the person of the establishment administering the treatment. The records consisting of name, address and time of treatment shall be subject to inspection at any time by any license inspector or city police officer.

(Code 1989, § 9-07-04; Ord. No. 02-02-26, 2-26-2002)

Sec. 22-145. - Grounds for suspension or revocation; notice; hearings; refund.

(a) A license granted under this article shall be subject to revocation or suspension. Whenever, in the opinion of the mayor and council, there is cause to revoke or suspend the license, a written notice of intention to revoke or suspend the license shall be furnished to the holder thereof. A hearing will be scheduled wherein the licensee may present his case before the mayor and council. The licensee shall receive five days' prior written notice of the time, date and place of any such hearing. After the hearing, the mayor and council may revoke or suspend the license if, in their discretion, revocation or suspension is in the best interest of the health, safety and welfare of the city. The license may be revoked or suspended upon one or more of the following grounds (but is not limited to such grounds):

- (1) The licensee or any employee of the licensee is guilty of fraud in the practice of massage, or fraud or deceit in obtaining a state license to practice massage therapy.
- (2) The licensee or any employee of the licensee is engaged in the practice of massage therapy under a false or assumed name, or is impersonating another practitioner of a like or different name.
- (3) The licensee or any employee of the licensee is addicted to the habitual use of intoxicating liquors, narcotics or stimulants to such an extent as to incapacitate such person to the extent that he is unable to perform his duties.
- (4) The licensee or any employee of the licensee is guilty of fraudulent, false, misleading or deceptive advertising or practices.
- (5) The licensee has been convicted of or has pled guilty or nolo contendere to a felony or to a misdemeanor involving moral turpitude or to any charge of a lascivious nature.
- (6) The original application, or renewal thereof, contains materially false information; or the licensee has deliberately sought to falsify information contained therein.
- (7) Noncompliance with any section of this article.
- (8) Any violation of state or local laws or ordinances.

(b) The city manager is delegated the authority to suspend any license under this article for due cause in any emergency situation; and such suspension may be made effective immediately and remain in force until the next session of the municipal court.

(e) It shall be unlawful for any person in a massage establishment to place his hands upon, to touch with any part of his body, to fondle in any manner, or to massage the genitals, pubic area, anus or perineum of any person, or the vulva or breasts of a female.

(f) It shall be unlawful for any person owning, operating or managing a massage establishment to knowingly cause, allow or permit in or about such massage establishment any agent, employee or other person under his supervision or control to perform any acts prohibited under this section.

(g) No employees of a massage establishment shall wear swimsuits, lingerie or similar garments or garments which expose areas described in subsection (e) of this section.

(h) All stand-alone massage establishments (those establishments not located within a professional's office, i.e., chiropractor, doctor, etc.) which apply for a license beginning January 1, 2002, must provide a reception area with adequate seating and immediate accessible entry and exit into and from the back office and area where the treatment rooms are located.

(i) During normal business hours as listed in this article, no one other than a patient, a patient's legal guardian(s) and employees of the massage establishment will be allowed beyond the reception area.

(j) The establishment shall have an owner, manager or supervisor on the premises at all hours the establishment offers massage therapy. Such owner, manager or supervisor in addition to the Licensee shall be responsible to make sure all persons performing massage therapy at any time has either an appropriate state license or city work permit and their failure to do so shall be a violation of this code.

(Code 1989, § 9-07-09; Ord. No. 02-02-26, 2-26-2002)

Sec. 22-150. - Inspections authorized.

The code enforcement officer or his authorized representatives shall and the police may, from time to time, make inspections during regular business hours of each massage business establishment for the purposes of determining compliance with the provisions of this article. It shall be unlawful for any licensee under this article to fail to allow the inspection officer or police officer access to the premises or to hinder the officer in any manner.

(Code 1989, § 9-07-10; Ord. No. 02-02-26, 2-26-2002)

Sec. 22-151. - Posting of license; transfer of license.

(a) Every person obtaining a license under this article shall display such certificate in a prominent place.

(b) No license shall be transferable.

(Code 1989, § 9-07-11; Ord. No. 02-02-26, 2-26-2002)

Sec. 22-152. - Reapplication after denial or revocation.